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BRITISH COLUMBIA

MINISTRY OF TRANSPORTATION AND HIGHWAYS

OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

A GUIDE TO OPERATIONS

BRITISH COLUMBIA

Ministry of
Transportation
and Highways

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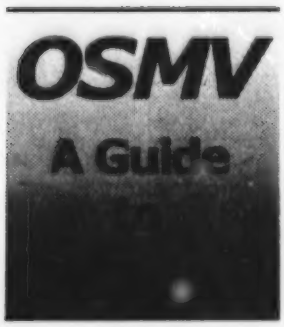

OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

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OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

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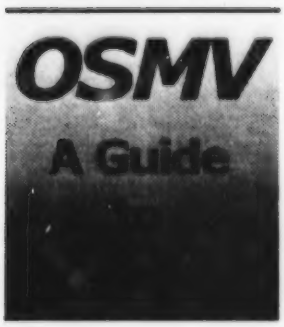
GENERAL PURPOSE

This guide provides information on the functions and responsibilities of the Office of the Superintendent of Motor Vehicles. It describes the programs and processes of the Office of the Superintendent, and sets out the authority which the Superintendent has delegated to other partners, notably to the Insurance Corporation of British Columbia, to ensure drivers are fit and able to operate motor vehicles safely in this province.

For the most current information about the Office of the Superintendent of Motor Vehicles, please visit our web site at: **www.th.gov.bc.ca**



BACKGROUND

EARLY HISTORY OF MOTOR VEHICLE LEGISLATION IN BRITISH COLUMBIA

Provincial authority to regulate motor vehicles and drivers dates back to February 10, 1904, when the provincial legislature passed a simple law setting the highway speed limit at 16 kmh in urban areas and 22 kmh elsewhere. A more complete law came into effect the following year, providing for licences for dealers, owners, chauffeurs, even permits for tourists.

The *Motor Vehicle Act* was born on Dominion Day, 1920. Among its many important provisions was one requiring motorists to drive on the right-hand side of the road. With an amendment to the Act in 1924, lifetime driver's licences started to be issued. For a time, speed limits were abolished, and a "common danger" clause inserted in its stead. An amendment to the Act in 1932 required driver's licences to be renewed annually, and another amendment in 1950 extended the renewal period to five years.

Compulsory driver's examinations began in 1939. Safety responsibility sections of the Act came into effect in 1948, providing for impoundment of a motor vehicle after an accident if the owner could not show proof of insurance. The impoundment law was repealed with the advent of compulsory auto insurance. Responsibilities of the Motor Vehicle Branch expanded over the years as standards of vehicle and driver safety developed.

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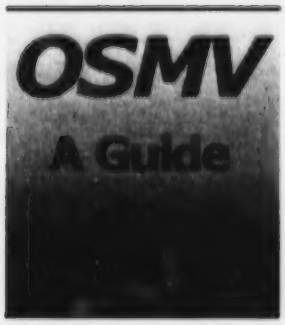
MERGER

A merger of the Motor Vehicle Branch and Insurance Corporation of British Columbia (ICBC) was announced on March 4, 1996, and the first phase was completed on November 18 that year. Many functions were transferred to ICBC, including vehicle registration and licensing, driver licence administration and issuing, driver training, administration of the 12 AirCare centres in the Lower Mainland, administration of violation tickets and the collection of fines, and administration and development of traffic safety programs.

The second phase was completed in December 1997 with the transfer to ICBC of responsibilities for vehicle standards and inspections, vehicle weights and dimensions, motor carrier licensing support, and enforcement of standards at roadside checks and weigh scales.

The Office of the Superintendent of Motor Vehicles (OSMV) including, the Driver Fitness Program, remains within the Ministry of Transportation and Highways. The Superintendent reports to the Assistant Deputy Minister of Management Services and Motor Vehicles.

The changes brought delivery of provincial road safety programs under one umbrella at ICBC and enhanced the efficiency and cost-effectiveness in the delivery of motor vehicle services.



ROLE OF THE SUPERINTENDENT OF MOTOR VEHICLES

The Superintendent promotes and regulates the fitness and safety of drivers through the establishment and maintenance of standards of unacceptable driving behavior and medical fitness, and may accordingly reduce or rescind driving privileges if standards are not met, or may direct ICBC to cancel a driver's licence.

The Superintendent provides an independent avenue of appeal for certain ICBC licensing decisions affecting drivers, vehicle inspection facilities, motor carrier companies, driver training schools and the people who work in these areas.

The Superintendent also performs reviews of administrative driving prohibitions and vehicle impoundments imposed by police at roadside.

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RESPONSIBILITIES OF THE OFFICE OF THE SUPERINTENDENT

The Superintendent of Motor Vehicles is responsible for show cause hearings related to actions proposed by ICBC to remove the certification of commercial ventures regulated under the *Motor Vehicle Act*. A hearing takes place before the licensing action can proceed. These ventures include driver training schools, commercial vehicle National Safety Code certificates or other vehicle inspection licences, AirCare certified repair facilities and repair technicians, designated inspection facilities and authorized inspectors.

The Superintendent is responsible for hearing appeals as a result of ICBC cancelling, refusing to issue or restricting a driver's licence, and also conducting reviews of driver prohibitions stemming from an unsatisfactory driving record or medical condition. Unlike a show cause hearing, appeals and reviews take place after a decision has been imposed.

The Superintendent reviews the administrative driving prohibitions and vehicle impoundments imposed by the police at the roadside. The Superintendent administers all aspects of the Driver Fitness Program and makes decisions on all drivers' licences where medical fitness is at issue.

The Office partners with ICBC, Ministry of Attorney General, Adult Addiction Services of the Ministry for Children and Families and others to aid in the implementation of the government's six-point road safety program, including indefinite driver licence suspension for drivers convicted of a motor vehicle related Criminal Code offence, remedial programs for dangerous or drinking drivers and enhanced penalty points for certain offences, such as speeding.

PROGRAMS OF THE OFFICE OF THE SUPERINTENDENT

1. Administrative Driving Prohibition Reviews
2. Vehicle Impoundment Reviews
3. Appeals of ICBC decisions
4. Show Cause Hearings
5. Driver Fitness
6. Driver Improvement

DELEGATED AUTHORITY

Under Section 117 of the *Motor Vehicle Act*, the Superintendent may delegate certain powers, duties and functions to persons at ICBC or persons appointed in accordance with the *Public Service Act*.

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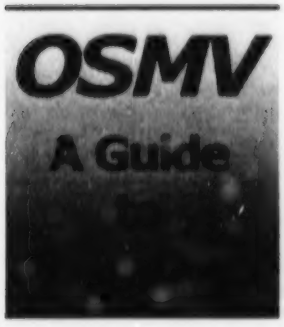
EXAMPLES OF OSMV AND ICBC ISSUES

OSMV

- Appeals and show cause hearings on ICBC licensing and certification decisions (National Safety Code)
- Vehicle impoundment and administrative driving prohibition reviews
- Bad driver profiles and driver sanctions (prohibitions, suspensions and cancellations)
- Driving prohibitions or suspensions resulting from motor vehicle Criminal Code and alcohol and drug driving convictions
- Reports on medical fitness to drive, medical examination requirements, medical exemptions for B.C. statutes, such as seat belts and bicycle helmets, and fitness of senior drivers
- Policy for remedial treatment program (alcohol and drug assessment/treatment)



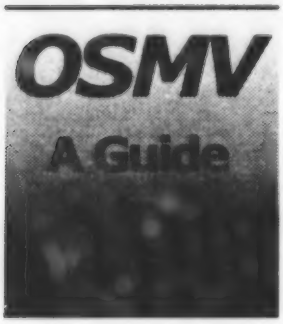
OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

ICBC

- Driver licensing (testing and issuance)
- Graduated licensing
- Driver training school certification and regulation of driver training schools
- Vehicle licensing policy and issuance
- Cycling issues and helmets
- Education and awareness (CounterAttack, community and safety programs, advertising)
- Commercial vehicle safety — except Motor Carrier Commission issues
- Commercial transport enforcement for drivers and vehicle condition
- Vehicle weights and dimensions
- Motor carrier support (Motor Carrier Department)
- Violation ticket administration and fines collections
- Photo radar and intersection safety cameras
- Task Force on Commercial Vehicle Safety
- Vehicle design and equipment
- AirCare program
- Driver points program (delegated by Superintendent)

RAPID REFERENCE CHART

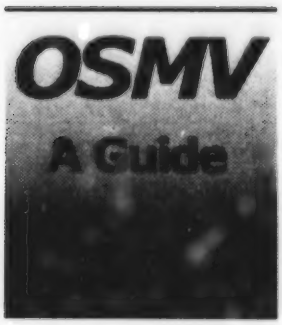
ISSUE	MOTOR VEHICLE ACT	INITIAL DECISION	APPEAL/ REVIEW	MOTOR VEHICLE ACT	COST	TIME LIMIT	FURTHER APPEALS
Failing a driver's test	25(6)	ICBC	ICBC	Administrative Policy	Nil		
Restricting a driver's licence	25(12)(14)	ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Refusing to issue a driver's licence	26(1)	ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Cancelling a driver's licence	26.1	ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Issuing a short-term driver's licence	27	ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Prohibiting a driver for unsatisfied judgement	91	ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Refusing to issue driving school licence		ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Refusing to issue driving trainer's instructor's licence		ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Refusing to issue authorization or designation to inspect vehicles	217(1)(a)	ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Refusing to issue certification for an AirCare repair centre		ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Refusing to issue certification to AirCare repair centre technician		ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Refusing to issue a NSC safety certificate	Division 37 Regulations	ICBC	OSMV	118.7	Nil	30 days	Judicial Review
Administrative Driving Prohibition	94.1	Police	OSMV	94.4	$100-oral $50-written	7 days	Judicial Review
Vehicle Impoundment	104.1/ 105.1	Police	OSMV	104.6/ 105.5	$100-oral $50-written $100-all compassionate reviews	30 days	Judicial Review
Prohibiting a driver for failing to have a medical examination requested under Section 29	92	OSMV	OSMV	Administrative Policy	Nil		Judicial Review
Restricting a driver's licence for reason of medical fitness or ability to drive	25(12)	OSMV	OSMV	Administrative Policy	$50		Judicial Review
Prohibiting a driver for reason of medical fitness or ability	92	OSMV	OSMV	Administrative Policy	$50		Judicial Review
Prohibiting a driver for an unsatisfactory driving record	93	ICBC OSMV	OSMV Sometimes the Court	94 & 117	Nil	30 days	Supreme Court
Cancelling a driver's licence due to medical fitness	92/61	OSMV	OSMV	N/A	$50		Judicial Review



OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

PROGRAMS

1. ADMINISTRATIVE DRIVING PROHIBITION
2. VEHICLE IMPOUNDMENT
3. APPEALS OF ICBC DECISIONS
4. SHOW CAUSE HEARINGS
5. DRIVER FITNESS
6. DRIVER IMPROVEMENT



OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

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1. ADMINISTRATIVE DRIVING PROHIBITION (ADP)

AUTHORITY

The authority for this program is found at Section 94.1-94.6 of the *Motor Vehicle Act*, as amended on May 5, 1997.

OVERVIEW OF THE PROGRAM

Under Administrative Driving Prohibition (ADP) police can prohibit from driving any driver who fails a blood-alcohol test or refuses to submit to such a test.

The prohibition comes into effect 21 days after the notice has been served and lasts 90 days. During the interim period, the driver is allowed to drive on a temporary driver's licence to arrange personal affairs, organize alternative transportation, or ask for a review.

ADP is an administrative licensing action under the *Motor Vehicle Act* and is independent of any criminal proceedings that may result. Manitoba, Nova Scotia, Ontario, Quebec, Prince Edward Island, Saskatchewan and Newfoundland all have similar programs.

Both the B.C. Supreme Court and the B.C. Court of Appeals recognized the constitutionality of ADP in recent decisions. The program has also withstood Charter challenges.

Manitoba saw a 44-percent reduction in repeat impaired driving offences within four years of implementation of its administrative driving prohibition program. There were significant declines in repeat offences and traffic crashes involving impaired drivers.

RATIONALE FOR THE PROGRAM

Impaired driving, whether by alcohol, drugs or a combination of alcohol and drugs, remains a leading cause of death on British Columbia highways. In 1995, alcohol-related accidents in B.C. killed 146 people and injured another 4,869. Research has shown immediate and certain punishments are the most effective deterrents to unlawful acts. The three-month ADP satisfies the basic requirements of an effective deterrent — certainty, severity and swiftness — and offers an effective adjunct to other legal sanctions.

PROCESS

An ADP is initiated by a police officer who is required by the *Motor Vehicle Act* to issue a notice of prohibition to any driver who fails or refuses a test for blood alcohol.

The notice serves as a temporary driver's licence if a B.C. driver's licence has been produced and surrendered. It does not serve as a temporary licence for out-of-province drivers or unlicensed drivers, who nonetheless are prohibited from driving in B.C. for 90 days, beginning 21 days after the notice was served.

The police officer sends a sworn report to the Superintendent of Motor Vehicles and includes a copy of the certificate of analysis if the driver has failed a blood alcohol test, and a report to crown counsel if criminal charges are contemplated.

The Superintendent creates a record and places it on-line for ICBC points of service around the province to facilitate access and retrieval should the driver ask for the information on file. The record contains all information submitted by police.

The driver has seven days from the time of the notice being served to apply for a review. If no review is sought, the prohibition takes effect 21 days from the time of service of the notice of prohibition.

ICBC FUNCTIONS	OSMV FUNCTIONS
Issues application to drivers who ask for a review.	Reviews all documents.
Accepts application and collects the fee.	Conducts the review.
Forwards application and all relevant documents to OSMV.	Provides feedback to police on program administration.

AVENUES FOR REVIEW

The driver may apply for a review on grounds that he or she was not the driver at the time, had a blood-alcohol level below the legal limit, complied with the request for a blood-alcohol sample or had a reasonable excuse for refusal. These are the only grounds the Superintendent may consider.

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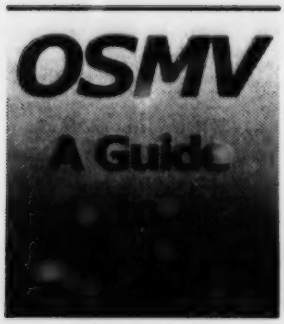
The review form — *Application for Review of a Driving Prohibition* — is available at any ICBC Driver Services Centre. The form must be completed and returned within **seven days** to the Superintendent of Motor Vehicles, PO Box 9850, Stn Prov Govt, Victoria, B.C. V8W 9T5, together with payment — $100 for an oral hearing or $50 for a written review.

The review is conducted by a hearing officer at the Office of the Superintendent in Victoria. Police evidence and any evidence submitted by the driver or representative is considered. The driver may appoint a representative to attend the hearing. Most oral hearings are conducted by phone, but in-person hearings can be arranged at the Office of the Superintendent in Victoria. The hearing officer has authority to make a decision, either confirming the prohibition or overturning it. The driver is normally notified within a day of the decision. A written decision must be sent to the applicant within 21 days of service of the prohibition notice, as required by Section 94.6 of the *Motor Vehicle Act*, unless an extension is granted.

OUTCOMES

If the review is changed in type from oral to written ...	... the fee is not refunded.
If the driver or representative fails to appear at an oral hearing ...	... the Superintendent will proceed with written review.
If the applicant succeeds ...	... the prohibition is revoked and review fee refunded.
If the applicant has outstanding fines or debts to ICBC ...	.... the amount owing is deducted from the refund.
If the applicant loses and wants to appeal the decision ...	.. an application may be made to the B.C. Supreme Court under the *Judicial Review Procedure Act*. The prohibition continues unless a stay is granted by the Court.



2. VEHICLE IMPOUNDMENT (VI)

AUTHORITY

The authority for this program is found in sections 104.1-104.95 and 105.1-105.94 of the *Motor Vehicle Act* as amended on May 5, 1997.

OVERVIEW OF THE PROGRAM

Police are able to impound a vehicle operated by a driver who is prohibited from driving or is unlicensed and has a previous conviction of driving without a driver's licence.

The length of impoundment is 30 days, unless the owner has previously had a vehicle impounded for the same reason under the program; then the impoundment is 60 days.

Storage fees, currently $12.35 per day in the lower mainland and $10.55 per day elsewhere in B.C., are set by regulation. Towing fees are competitive and based on the size of vehicle and distance to be towed. An average towing fee is $53.

The program allows a person who lives with the owner and has a valid driver's licence to apply for early release on compassionate grounds. The cost of the application is $100, and there is no refund.

The owner is held responsible even if someone else was driving. If the owner can show he or she used due diligence in ensuring the driver was properly licenced, the vehicle may be released, although the owner will still have to pay towing and storage charges. A typical scenario is a car rental company that has rented a vehicle to a qualified driver who in turn has loaned it to a third party who does not have a valid driver's licence or is prohibited.

When an impounded vehicle remains unclaimed 30 days after the impoundment term has expired, the lot operator may apply to the Superintendent for disposal.

RATIONALE FOR THE PROGRAM

Despite high-profile educational and enforcement efforts, drinking and driving, and driving without a license offences continue to occur. In 1994, more than 35,000 drivers were convicted of driving without a valid driver's licence in B.C. Studies from other

jurisdictions indicate that up to 65 per cent of prohibited drivers drive at some time during their prohibition period. In 1993, about 5,000 drivers were charged with driving while prohibited.

Vehicle impoundment serves to remove prohibited or unlicensed drivers from the road immediately by impounding the vehicle that they are driving.

PROCESS

The process is initiated by a police officer who issues a notice of impoundment at roadside. The police officer arranges for the vehicle to be towed to an impound lot and ensures the occupants have access to transportation.

A copy of the notice, together with a sworn report from the police officer, are sent to the Office of the Superintendent. The Superintendent sends a certified or registered letter to the vehicle owner, and places the information on-line to ICBC points of service to facilitate access and retrieval for the owner should he or she request the information.

If no review is requested, the vehicle remains impounded and is released only after the owner or an authorized representative has completed a *Request for Vehicle Release* form and has paid all towing and storage charges to the impound lot operator. The form is available at any ICBC point of service.

The licence plates on the impounded vehicle may not be removed during impoundment. The owner is thus prevented from selling or transferring the vehicle, but can apply for reduced insurance coverage for the period the vehicle is off the road. The minimum period for such reduced insurance coverage is 30 days.

If the impoundment expires on a weekend or holiday, the owner or a person authorized by the owner may complete a *Request for Vehicle Release* form on a working day immediately prior to the release date. The vehicle can be released only on or after the date of release.

ICBC FUNCTIONS UNDER DELEGATED AUTHORITY	OSMV FUNCTIONS
Accepts applications for a review and collects the fee.	Reviews all documents relating to the program.
Schedules the review.	Conducts reviews.
Manages the completion of *Request for Vehicle Release* forms.	Provides quality control for impound lots.
Orders vehicle release when impoundment expires.	Provides feedback to police, points of service and lot operators on the program.

AVENUES FOR REVIEW

Only the owner of an impounded vehicle may apply for a review of the impoundment, and only a person who lives with the owner may apply for compassionate release of the vehicle.

The owner, if also the driver, may apply for a review if able to show he or she held a valid driver's licence, or was exempt from holding a B.C. licence or not prohibited from driving at the time of the impoundment.

The owner, if not the driver, may apply for a review if able to show that reasonable care and diligence were taken in entrusting the vehicle to another driver, that the driver took the vehicle without the owner's knowledge or consent, (i.e. it was stolen) or that the driver held a valid driver's licence, was exempt from holding a B.C. licence or not prohibited from driving at the time.

A cohabitant applying for compassionate release must be able to show the vehicle is needed for work, school or medical treatment and that there is no adequate alternative transportation available. The cohabitant must have a valid driver's licence, not be prohibited from driving, and have the owner's consent to take the vehicle.

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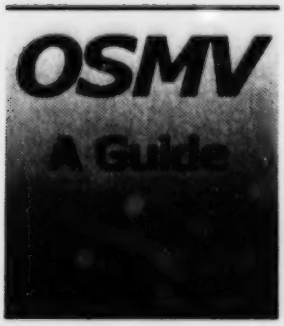
Applicants must complete the form *Vehicle Impoundment Application for Review/Request for Compassionate Release* (Form MV2705), available at any ICBC Driver Services Centre, and return it to the Superintendent of Motor Vehicles, PO Box 9850, Stn Prov Govt, Victoria, BC V8W 9T5, together with payment — $100 if an oral hearing is desired or $50 if a written review is sought — and proof of identity and vehicle ownership. The fee to apply for compassionate release is $100.

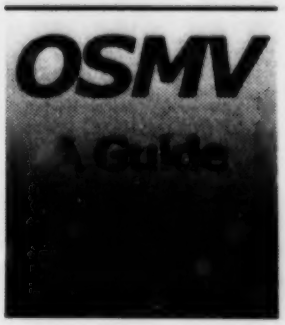
Reviews are conducted by a hearing officer from the Office of the Superintendent. Police reports, the driver's record and driving history, and any other relevant information are reviewed. Oral or written submissions are also considered. An oral hearing is normally conducted by phone with the owner or a representative of the owner.

The owner is normally notified within a day of the decision. A written decision outlining the reasons for decision is sent to the owner within seven days, as required under sections 104.8 and 105.7 of the *Motor Vehicle Act*.



OUTCOMES

If an application is made for compassionate release of a vehicle ...	... the $100 fee will not be refunded, regardless the outcome.
If the review is changed in type from oral to written ...	... the fee will not be refunded.
If the individual fails to appear at an oral hearing ...	... the Superintendent will proceed with a written review.
If the owner is able to show the vehicle was taken without knowledge or consent ...	... the vehicle will be released and the Superintendent will pay for all towing and storage costs.
If the owner is able to show reasonable effort was made to ensure the driver had a valid licence ...	... the Superintendent will order the release of the vehicle, but the owner will have to pay for towing and storage fees.
If a vehicle is impounded for 60 days and the applicant is able to show the appropriate term was for 30 days ...	... the Superintendent will order the release of the vehicle after 30 days; the owner has to pay all towing and storage costs.
If the applicant is able to show the impoundment was not justified ...	... the Superintendent will refund all fees for towing and storage and may compensate for the owner's out-of-pocket expenses while the vehicle was impounded.
If the applicant has outstanding fines or debts to ICBC ...	... the amount owing is deducted from the refund.
If the applicant loses and seeks an appeal ...	... an application may be made to the B.C. Supreme Court under the *Judicial Review Procedure Act*.
If the vehicle owner fails to retrieve the impounded vehicle within 30 days after the expiration of the impoundment ...	... the impound lot operator may regard the vehicle as abandoned and may apply to the Superintendent to dispose of it under the *Warehouse Lien Act*.



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3. APPEALS OF ICBC DRIVER LICENSING DECISIONS

AUTHORITY

Section 118.7 of the *Motor Vehicle Act* (amended Dec. 14, 1997) authorizes individuals affected by certain ICBC licensing decisions to appeal the decision to the Superintendent. The Superintendent may confirm, vary, replace or rescind ICBC's decisions.

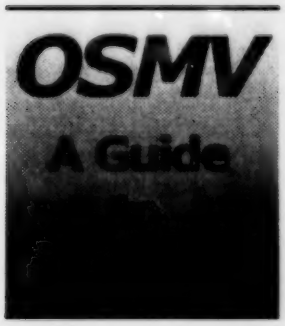
OVERVIEW

ICBC has the legislated authority to issue or renew driver's licences and to make decisions on them. The following decisions may be appealed to the Superintendent:

- Cancellation or refusal to issue a driver's licence because of an outstanding debt for non-payment of violation tickets, insurance premiums or fees or reimbursements of money paid in respect of a claim;
- Cancellation or refusal to issue a driver's licence because of an unsatisfied insurance judgement, as provided in Section 91 of the *Motor Vehicle Act*;
- Restriction on a driver's licence as a result of a driver's test, as provided in Section 25 (14) of the *Motor Vehicle Act*.

A person affected by an ICBC decision may appeal on any grounds. Commonly, appellants allege that the decision was based on errors of fact or on factors not relevant to the situation, whether relevant information was not considered, or whether the decision created a personal hardship relating to education, job or medical treatment. An appellant is expected to provide proof for any claims made.

The appeal process cannot be used to contest a violation ticket or failure of a driver's test, or to alter a driver's status as a result of a medical review. Nor can it be used if the matter is before the courts, or if more than 30 business days has lapsed since the ICBC decision.



The cost of an appeal is $50, payable at the time the appeal form is filed with the Superintendent of Motor Vehicles. The fee is refunded if the appeal is successful.

Appellants in receipt of assistance under the *BC Benefits (Income Assistance) Act* or the *BC Benefits (Youth Works) Act* or whose family income is equal to or less than the income they would receive under these programs, may apply for a waiver of the fee. The application is

available at any ICBC point of service. Applicants are required to provide proof of receipt of assistance from BC Benefits or proof of income, such as their latest tax return.

RATIONALE

The Superintendent of Motor Vehicles provides an independent third party review of ICBC licensing decisions. Anyone who believes ICBC has unreasonably curtailed his or her driving privileges may appeal to the Superintendent.

PROCESS

Any driver whose driver's licence has been cancelled, refused or restricted for reasons cited above will have received from ICBC a formal Record of Decision outlining why the action was taken.

An appeal is initiated by the filing a notice — *Driver's Licence Refusal/ Restriction Application for Appeal* — available at any ICBC point of service or the Office of the Superintendent. The appeal costs $50, unless a waiver has been approved.

The completed form must be returned to the Superintendent of Motor Vehicles, PO Box 9850, Stn Prov Govt, Victoria, BC V8W 9T5 along with a copy of ICBC's written decision, the fee if provided, grounds for appeal, and a submission as to how the decision has affected the appellant.

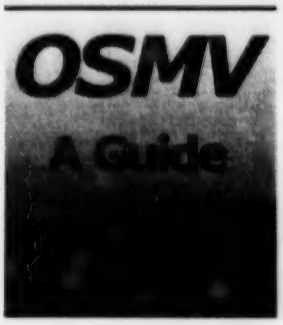
The appeal must be filed within 30 business days of receiving the notice from ICBC. The appeal period may not be extended.
On acceptance of an appeal, the Registrar, Hearings and Appeals may offer mediation services to the parties. The appeal will continue if mediation efforts are unsuccessful.

The Superintendent will provide ICBC with a copy of the notice and any related documents supplied by the appellant. ICBC has three business days to respond. The Registrar, Hearings and Appeals may ask for more information if required.

The Superintendent has no power of subpoena, nor can interim relief or a stay of the ICBC decision be granted pending the outcome of the appeal.

Most appeals will be held by way of written submissions. Each party will have an opportunity to comment on the submissions.

Written decisions are provided to both parties at the conclusion of the appeal.



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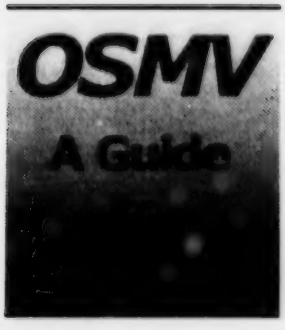
ICBC FUNCTIONS	OSMV FUNCTIONS
Makes decision affecting a driver's licence; advising driver of appeal process.	Renders decision on application for fee waiver.
Issues appeal and fee waiver forms.	Reviews all evidence relating to the appeal.
Ensures all relevant documents are submitted to OSMV within the time allowed.	Requests additional information from ICBC or the appellant, if required.
Provides supplementary materials as requested by the Registrar, Hearings and Appeals.	Makes a decision on the appeal.
Takes appropriate action as a result of the Superintendent's ruling.	

AVENUES FOR REVIEW OR APPEAL

There is no statutory right of appeal from decisions reached by the Superintendent. An individual may apply for a judicial review in B.C. Supreme Court.



4. SHOW CAUSE HEARINGS

AUTHORITY

Section 118.3 of the *Motor Vehicle Act* (amended December 14, 1997) authorizes the Superintendent to consider and decide show cause hearings where a licence, authorization, designation or safety certificate is the subject of certain actions proposed by the Insurance Corporation of British Columbia.

OVERVIEW

In merging MVB functions, ICBC took on the authority to licence driver training schools and driver training instructors and to designate vehicle inspection facilities. It also took on authority to issue certificates for AirCare repair centres and technicians, National Safety Code certificates, and commercial vehicle licences, and also to restrict or prohibit the use of a commercial vehicle.

Show cause hearings provide an opportunity to challenge an action proposed by ICBC with respect to suspending, cancelling or refusing a licence, authorization, designation or certificate.

A fee of $200 is payable when the hearing is launched.

RATIONALE FOR PROGRAM

The show cause hearing provides an independent hearing before these ICBC decisions are imposed.

PROCESS

ICBC advises a person of its intended action, citing its authority and reasons, and providing a summary of evidence, including copies of documents and statements.

A person may challenge the contemplated action by filing a Notice of Intention to Show Cause to the Superintendent within **15 business days** of being notified by ICBC.

The notice is filed with the Office of the Superintendent. Failure to file in time may result in the Superintendent authorizing ICBC to take the proposed action without further notice to the person.

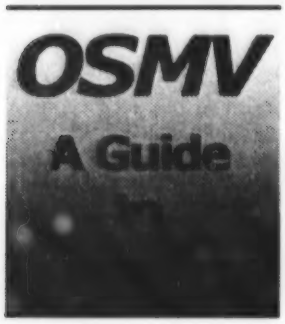
If no notice is filed, the Superintendent, once satisfied that ICBC has valid grounds for the action and that the person has been properly notified, may authorize the proposed action to go ahead. The authorization will be made in writing with copies to both the person affected and ICBC.

HEARING PROCESS

The Hearings will be conducted in person or by videoconference. Usually, the Superintendent will:

- Call the show cause hearing to order, request the parties identify themselves, and ensure the parties are ready to proceed;
- Ensure the person who has filed the notice has a copy of all documents and understands the nature of the action proposed by ICBC;
- Answer any procedural questions and determine whether there are any submissions that may be accepted prior to calling evidence;
- File as an exhibit ICBC's statement outlining the proposed action and citing the authority;
- Accept relevant evidence;
- Call upon ICBC to give evidence why the proposed action should be taken, and allow a cross-examination and re-examination;
- Call upon the person who has filed the notice to give evidence why the proposed action should not be taken, and allow a cross-examination and re-examination; and
- Ask each side to make closing submissions.

Copies of the written decision are made available to both parties. A decision may be communicated in advance of written reasons, but reasons will be available to the parties within a reasonable time.



ICBC FUNCTION	*OSMV FUNCTIONS*
Advises the individual of the proposed action, citing the authority and reasons, and providing supporting documents.	Receive Notice of Intention to Show Cause.
Confirms the person has received the documents.	Schedule and conduct Show Cause Hearing. Collect the fee ($200).
Provides Superintendent with copies of all relevant documents.	Makes the decision as a result of evidence produced at the Hearing.
Carries out decision of the Superintendent.	

AVENUES FOR REVIEW OR APPEAL

There is no statutory right of appeal from decisions reached by the Superintendent. An individual may apply for a judicial review to the B.C. Supreme Court.

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5. DRIVER FITNESS

AUTHORITY

Section 29 of the *Motor Vehicle Act* authorizes the Superintendent of Motor Vehicles to require drivers to be examined for fitness to operate a motor vehicle of the category for which the person is licensed or is applying for. Section 92 authorizes the Superintendent to refuse to issue or to cancel any class of driver's licence if the holder has a medical condition or disability that affects his or her ability to drive, or if the licence holder does not complete a medical examination as requested by the Superintendent or as required by legislation. Section 25 authorizes the Superintendent to place a driving restriction on such a driver or to have the driver take further tests.

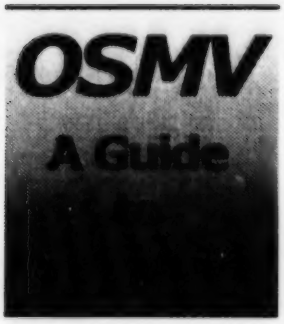
OVERVIEW

The office receives about 70,000 medical examination forms a year. Most medicals are submitted as part of licensing requirements, but many come from medical professionals who are required under Section 230 of the *Motor Vehicle Act* to report any patient over the age of 16 who has a medical condition that would put the patient or the public at an unacceptable risk should the patient drive a vehicle, and who continues to drive despite being warned not to.

In deciding whether a patient's conditions should be reported to the Superintendent, medical practitioners are guided by the *Guide for Physicians in Determining Fitness to Drive a Motor Vehicle*, produced by the B.C. Medical Association in collaboration with the Superintendent of Motor Vehicles.

RATIONALE FOR PROGRAM

A driver's physical, cognitive or medical condition may impair fitness to drive. This program allows such drivers to be identified and their driving privileges to be modified or reduced in the interest of public safety.



Medical assessments are required for:

- All drivers at age 80, then every two years;
- Holders of Class 1, 2 or 4 licences at ages 40, 50, 55, and 60, then every two years;
- Holders of a Class 3 licence at ages 45, 55, 65, and 68, then every two years.

A medical assessment may also be initiated if a driver has been involved in an accident, if the driver's record has been brought to the attention of the Superintendent, if police or medical professionals have expressed concern to the Superintendent about a person's driving fitness, or on the basis of credited reports from family members or other individuals.

PROCESS

Medical Intake agents review all medical reports, process those which show no medical condition and forward the balance to a reviewing officer.

If a person's driving record comes to the attention of the medical review section, a reviewing officer will first ensure medical reasons for the action contemplated have been clearly stated and properly documented and that they are consistent with guidelines of the B.C. Medical Association and Canadian Medical Association.

The officer will then consider the medical evidence, opinions and recommendations of medical professionals, and information provided by the driver or driver examiner reports.

Medical consultants and nurses may assist in the review by providing specialist advice to the reviewing officer.

The reviewing officer makes the decision on behalf of the Superintendent of Motor Vehicles.

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ICBC FUNCTIONS UNDER DELEGATED AUTHORITY	OSMV FUNCTIONS
Provides medical forms at points of service.	Maintains all medical files.
May order a driver to submit a medical examination to the Superintendent if the driver declares, upon application for a licence, a medical condition for which an examination is required under policy provided by the Superintendent.	Conducts medical reviews.
Follows up to ensure required medical examinations are completed within the time period prescribed by the Superintendent.	May order ICBC to cancel, refuse to issue or restrict a class of driver's licence based on medical opinions and recommendations.
May issue a driving prohibition if the examination results have not been returned by a date the Superintendent specifies.	Directs applicants to specialists for medical assessments.
May cancel and issue a lower class licence if the client no longer wants the licence requiring a medical.	Directs applicants to specialists for individualized medical and functional testing.
May answer certain general inquiries from the public about the program.	Answers specific inquiries about the driver fitness program and medical files.
Ensures actions of the Superintendent are carried out.	
Ensures the affected driver acknowledges the action ordered by the Superintendent.	

AVENUES FOR REVIEW OR APPEAL

The Office handles 200 to 300 medical review (appeal) requests from drivers each year.

The appeal must be made in writing to the Superintendent of Motor Vehicles. The fee is $50, and there is no waiver, exemption or refund. All medical information and recommendations are referred to at least two physicians in the appropriate speciality nominated by the B.C. Medical Association. The Office of the Superintendent pays each physician a $100 stipend, but the appellant has to pay for any additional tests or examinations the reviewing specialists may request. The Superintendent will consider all information in reaching a decision.

There is no statutory right of appeal from decisions reached by the Superintendent. An individual may apply for a judicial review in B.C. Supreme Court.

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6. DRIVER IMPROVEMENT

AUTHORITY

The Superintendent of Motor Vehicles has the responsibility to monitor driving records and take corrective action when necessary. Section 93 of the *Motor Vehicle Act* authorizes the Superintendent of Motor Vehicles to prohibit a person from driving a motor vehicle for failing to comply with the Act or for having an unsatisfactory driving record in B.C. or elsewhere in North America. Section 117 of the *Motor Vehicle Act* allows the Superintendent to delegate responsibility and authority under this program.

OVERVIEW

The Driver Improvement Program is administered jointly by ICBC, under delegated authority, and the Office of the Superintendent.

The Superintendent sets standards, delegates authority, issues program directives, and receives notices of appeal under Section 94 of the *Motor Vehicle Act*.

Driving records are maintained for all drivers, including unlicensed drivers, and are monitored by the Driver Licensing System administered by ICBC.

They include entries for penalty-point traffic tickets, as set out in Division 28 of the *Motor Vehicle Act*, and 24-hour roadside prohibitions, as described in Section 215 of the *Motor Vehicle Act*.

When a certain "points" threshold determined by the Superintendent is reached on a driver's record, the system generates a warning or probation letter to the driver, depending on the situation, which serves as an incentive for drivers to change their driving behaviour before more serious action, such as prohibition, is considered. At a higher points threshold, the driver may be prohibited.

The Superintendent may also wish to review the driving record in greater detail to determine if other sanctions are warranted.

In considering appropriate action under this program, the Superintendent takes into account a number of factors, including driving experience, penalty point record, driver's history and past driver's license actions taken, and seriousness of the offence or offences.

RATIONALE FOR PROGRAM

Drivers with an unsatisfactory driving record are at a high risk of having an accident. By removing them from the roads, the program helps to deal with the specific risk posed by the bad driver and to deter others from engaging in risky driving behaviour.

PROCESS

All notices and correspondence in this program are sent under the signature of the Superintendent. However, some of the work is done by ICBC under Section 117 of the *Motor Vehicle Act*.

The ICBC Driver Licensing System may cause letters to be automatically generated when:

- A new or unlicensed driver receives a two-point or three-point violation (warning letter);
- An experienced driver receives eight to 14 points (approximately three violations) over two years (warning letter);
- A new driver receives four to seven points (six-month probation letter);
- An experienced driver receives 15 to 19 points (six-month probation letter).

An ICBC adjudicating officer will review the licence of any driver with a higher points level and may send a Notice of Intention to Prohibit to the person. This notice is sent before a prohibition is imposed.

The Notice of Intention to Prohibit is issued, when:

- The requisite points threshold has been exceeded;
- The driver has been convicted of another offence while on probation, even if the offence occurred before the probation;
- The driver has had a prior prohibition within two years but more than a year.
- The driver has been convicted in the US of an offence that is equivalent to a Canadian Criminal Code motor vehicle related offence;

The Notice of Intent permits the driver to apply to ICBC for a review and supply additional personal information for ICBC to consider. The request must be made within **21 days** of receiving the notice. If no request is made, the driver must sign and acknowledge the Notice of Intention to Prohibit, which initiates the prohibition.

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Final Notice of Prohibition is issued when:

- The driver has accumulated more points within a year of a probation or prohibition;
- The driver decides not to pursue a review after receiving the Notice of Intention;
- The prohibition is upheld after a review.

The Final Notice imposes the prohibition and is sent by certified mail to the driver, or is personally served. Once acknowledgement has been obtained or the driver is served, the prohibition takes effect for the duration specified. The driver may apply directly to the Superintendent to review the prohibition, but the prohibition remains in effect unless the Superintendent orders otherwise.

ICBC FUNCTIONS UNDER DELEGATED AUTHORITY	OSMV FUNCTIONS
Generates offence, warning and probationary letters.	Sets policy for all driver improvement action.
Initiates searches at set point thresholds.	Receives, reviews and reconsiders driver submissions in response to a Final Notice of Prohibition from ICBC.
	May confirm, replace, vary or rescind any prohibition action taken by ICBC. (Post imposition)
Adjudicates driving records identified by the Driver Licensing System and records of convictions of motor vehicle related Criminal Code offences.	
Serves notices under the Superintendent's signature, verifies signatures of certified mail cards to establish start date for prohibition, records prohibitions and maintains driver improvement files and records for the Superintendent.	

OSMV

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ICBC FUNCTIONS UNDER DELEGATED AUTHORITY	OSMV FUNCTIONS
Receives calls from drivers and explains action taken in name of the Superintendent.	
Discusses individual driving records and rationale for action and encourages drivers to write submissions and improve driving behavior.	
Receives, reviews, considers and responds to driver submissions in response to a Notice of Intention to Prohibit, which may result in changes to the prohibition, or upholding it.	
Under the Superintendent's signature, prints and mails the Final Notice of Prohibition.	

AVENUES FOR REVIEW OR APPEAL

Drivers who receive a Notice of Intention to Prohibit may apply to ICBC for a review, (the appropriate address is shown in the Notice). There is no fee.

Drivers who receive a Final Notice of Prohibition may apply to the Office of the Superintendent for a review, either oral or in written form. (The appropriate address is shown in the Notice). There is no fee.

Reviews are usually by written submissions, but may be oral in exceptional circumstances.

The adjudicator considers the individual's driving record and history, personal or financial hardships, family responsibilities, employment and other relevant information.

Prohibitions administered by the Superintendent may be appealed to the B.C. Supreme Court under Section 94 of the *Motor Vehicle Act*. The appeal must be made within 30 days of the person receiving a Final Notice of Prohibition.

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APPENDIX

VEHICLE IMPOUNDMENT PROGRAM

As of August 1999, the towing and storage rates are:

Storage:

$12.35 per day in Lower Mainland

$10.55 per day elsewhere in B.C.

Towing:

Based on size of vehicle and distance to be towed. Average towing fee is $53.00.

All rates are subject to change without notice.

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